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REPORT BY THE U.S.

General Accounting Office

Extent Of Compliance With DOD's Requirement To Report Defense-Related Employment

As part of its overall analysis of defense-related post-government employment, GAO is making this interim report on the extent to which former DOD personnel are complying with the legal requirement that they report post-government employment with major defense contractors.

DOD did not know the degree of compliance. To determine whether those required to report were doing so, GAO developed a universe of persons who were likely required to report in fiscal year 1983 by matching DOD computer tapes of those who left DOD with tapes of non-government persons holding security clearances to work at major defense contractors. The universe is approximate, primarily because it does not include contractor employees who do not have security clearances. It may also include some people who were not required to report.

GAO's analysis of this universe indicated that about 70 percent of the individuals did not report post-government employment for fiscal year 1983.

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NATIONAL SECURITY AND
INTERNATIONAL AFFAIRS DIVISION

B-218976

The Honorable William V. Roth, Jr.
Chairman, Committee on Governmental Affairs
United States Senate

The Honorable John E. Porter
House of Representatives

This report is an interim response to your August 10, 1984, request that we

--examine the degree of compliance with the requirement of Section 2397 of Title 10, United States Code that former Department of Defense (DOD) personnel (certain grade levels of military officers and civilian employees) report employment with major defense contractors,

--determine the completeness and accuracy of the information reported,

--suggest improvements to DOD's process for compiling and reviewing submitted reports,

--identify the number of former personnel working on the same or similar projects as they worked on when they were with DOD, and

--determine the extent former DOD personnel are aware of post-government employment restrictions.

As agreed with your offices, this interim report provides only information on the degree of compliance with Section 2397 of Title 10, United States Code. We are continuing our study and will further address the compliance issue and the other issues in a subsequent report. That report will include our recommendations for correcting any problems we identify.

To analyze all the issues you requested, our work will include a case study of nine major defense contractors. However, none of the information or analysis in this interim report is based on information obtained from those companies. Rather, it

is based on our analysis of DOD administrative data bases containing information on people who left DOD between October 1, 1979, and September 30, 1983, and people holding security clearances during fiscal year 1983.

EXTENT OF POST-EMPLOYMENT PROBLEM IS UNKNOWN

In a 1978 report to the Congress, "What Rules Should Apply to Post-Federal Employment and How Should They Be Enforced?" (FPCD-78-38, Aug. 28, 1978), we reported that the

> extent to which a post-Federal employment problem exists is not known, appropriate levels of enforcement have not been determined, and little hard data is available to determine whether or not existing statutes and regulations are adequate to preclude post-Federal employment problems or the appearance of such problems.

In that report, we suggested that a central ethics office, in collaboration with other Executive Branch departments and agencies, develop and implement a system to determine the extent to which post-federal employment activities of former government officials may be a problem. The Office of Government Ethics has since been established, but it has never made such a determination. Thus, the extent of the problem remains unknown.

While this current report provides information on the number of former DOD personnel working for defense contractors and their compliance with the reporting requirement, it does not address the question of the extent to which such employment constitutes a potential or apparent conflict of interest. Substantial additional work would be needed to identify the specific employment situations of the individuals involved before drawing any conclusions as to the extent their employment may represent a problem.

REPORTING REQUIREMENT

Under Section 2397 of Title 10, United States Code, certain former DOD personnel are required to file a report annually (form DD 1787) on their defense-related employment for up to 4 years after leaving DOD.[1] The purpose of the report is to provide

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[1]The law requires former personnel to report employment for each fiscal year they are employed by a defense contractor if within the 3-year period before the beginning of that fiscal year they served on active duty or performed civilian service for DOD. As a result, people who leave DOD and accept employment in the same fiscal year will need to report for 4 years, whereas people who leave DOD in one fiscal year and accept employment in the next fiscal year would only have to report for 3 years.

information on their current employment activities. The requirement applies to all former civilian employees who were paid at or above the base rate for a GS-13 and all former military officers who had at least 10 years of continuous service and had attained the military rank of O-4 (Major or Lt. Commander) or above who go to work (either employed directly or serving as a consultant) for a defense contractor with at least $10 million in negotiated defense contracts and are paid at an annualized rate of $15,000 or more. Contractors meeting the $10 million criterion are determined by the Office of the Secretary of Defense, who annually publishes an updated list in the Federal Register. An individual who fails to file a required report is subject to a fine of not more than $1,000 or imprisonment for not more than 6 months, or both.

DOD has reported that 2,151 individuals filed a report of employment with a defense contractor for fiscal year 1983.[2] DOD has not estimated how many people were required to file the report nor the degree of compliance with the reporting requirement.

SCOPE AND METHODOLOGY OF OUR ANALYSIS

To provide an estimate of compliance for fiscal year 1983, we obtained a computer tape from the Defense Investigative Service of all non-government persons holding personnel security clearances. We compared this computer tape with a computer tape from the Defense Manpower Data Center of persons who left DOD during the period October 1, 1979, through September 30, 1983. We extracted from the Defense Investigative Service tape a listing of former DOD personnel holding security clearances during fiscal year 1983 to work at defense contractor facilities. The holding of a security clearance is a good indication that the individual was employed because the process for obtaining a security clearance is initiated by the company after an individual is hired. Furthermore, the Defense Investigative Service tape should indicate when the clearance for the individual to work at that company was terminated. The tape we used reflected data as of March 1985. We selected security clearance holders who (1) left DOD after October 1, 1979, and (2) held a security clearance at a facility of a company which had $10 million or

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[2]It has been publicly reported that 2,240 individuals filed a form DD-1787. This number, however, includes 89 individuals employed by DOD who are required to file a DD-1787 because of prior employment with a defense contractor.

more in negotiated contracts with DOD. This resulted in a universe of persons (5,844) who were likely required to file an employment report for fiscal year 1983.[3]

From this universe, we selected a statistical sample of 291 individuals--stratified by Army, Navy, Air Force, Marine Corps, and civilians. We identified the number of persons from our 291-person sample who have a report on file at DOD and projected this filing rate to the population of security clearance holders we identified as probably being required to file.

While this approach provides a method for estimating compliance, it has limitations. The information used to develop the universe was taken from DOD computerized administrative records. We have not assessed the reliability of those records. Further, the universe is approximate because it (1) does not include former DOD personnel who go to work for major defense contractors but do not obtain security clearances and (2) may not include consultants whose security clearances are held through the consulting firm for whom they work. These individuals would also be required to report. Also, it could include some individuals holding security clearances to work at a facility of a major defense contractor who are actually employed by a subcontractor that does not have $10 million or more in negotiated contracts. These individuals would not be required to report. In addition, all persons in the universe may not have been paid at an annualized rate of $15,000 or more. However, since these individuals were making more than $30,000 when they left DOD, it is probable that most would meet this criterion.

The extent to which these factors affect our projections is not determinable at this time. As a result, we are unable to reconcile our projections with the 2,151 persons DOD reported as filing in fiscal year 1983. We will gain insights into the relationship between our projection and the number DOD has reported as we complete our study.

EXTENT OF COMPLIANCE WITH THE REPORTING REQUIREMENT

Our analysis suggests that about 70 percent of the people who were likely required to file in fiscal year 1983 did not. Using the 4-year reporting requirement, we identifed 5,844 individuals who probably should have reported employment for

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[3]Because DOD has historically informed individuals that the filing requirement is a 3-year requirement, we also identified a list of persons (4,113) who left DOD after October 1, 1980, and held a security clearance to work at a major defense contractor for fiscal year 1983. We show our projections for both a 3-year and 4-year reporting requirement.

fiscal year 1983. Based on our sample, we project that 28.9 percent or 1,691 of that universe actually did file an employment report. We are 95 percent confident that the true filing rate for our universe is between 23.9 and 33.9 percent or between 1,400 and 1,982 actual filers. Using the 3-year reporting requirement, we identified 4,113 individuals who probably should have reported employment for fiscal year 1983. Based on our sample, we project that 33.7 percent or 1,388 individuals actually did file an employment report. We are 95 percent confident that the true filing rate for our universe is between 27.7 and 39.7 percent or between 1,141 and 1,635 filers. The following table shows the rate of filing for a 3- or 4-year reporting requirement for each of the military services and for civilian employees.

Rate of Compliance With Requirement to Report Defense-Related Employment

	4-year requirement			3-year requirement		
	No. likely required to file	No. filing	Percent filing	No. likely required to file	No. filing	Percent filing
Army	1,013	138	13.6	720	137	19.0
Navy	1,310	236	18.0	914	163	17.8
Marine Corps	248	46	18.5	176	44	25.0
Air Force	1,924	1,166	60.6	1,384	943	68.1
Civilians	1,349	105	7.8	919	102	11.1
Overall	5,844	1,691	28.9	4,113	1,388	33.7

Note: The rate of compliance is based on the population we identified as likely required to file an employment report. See Appendix I for the range of projections based on our sample information. Appendices II through IX provide further analyses of the information we developed.

As the table shows, Air Force officers have a significantly higher compliance rate. We believe that this occurs because the Air Force notifies retired officers on a yearly basis of the requirement to file and the other services do not.

We have discussed this report with DOD officials. They believe that our methodology for estimating compliance was appropriate, and expressed surprise at the low level of reporting compliance. They also pointed out that the law does not require DOD to estimate or report on levels of compliance.

As arranged with your offices, we do not plan further distribution of this report for five days from the date of issuance. At that time, we will send copies to the Secretaries of Defense, Army, Navy, and Air Force; the Director of the Office of Management and Budget; the Director of the Office of Government Ethics; interested congressional committees and staffs; and other interested parties.

Frank C. Conahan
Director

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APPENDIX I

Projected Reporting Compliance Rates for Fiscal Year 1983[a]

	4-year filing rates (includes FY 1980)		3-year filing rates (excludes FY 1980)	
	Percent	Number	Percent	Number
Army	13.6 ± 1.5	138 ± 15	19.0 ± 2.1	137 ± 15
Navy	18.0 ± 2.1	236 ± 27	17.8 ± 2.5	163 ± 23
Marine Corps	18.5 ± 0.4	46 ± 1	25.0 ± 0.5	44 ± 1
Air Force	60.6 ± 3.9	1,166 ± 75	68.1 ± 4.5	943 ± 62
Civilians	7.8 ± 1.7	105 ± 23	11.1 ± 2.3	102 ± 21
Overall	28.9 ± 5.0	1,691 ± 291	33.7 ± 6.0	1,388 ± 247

[a]Projected rates are based on a statistical sample of former DOD personnel we identified as holding a security clearance to work at a facility of a company having at least $10 million in negotiated contracts with DOD. We are 95 percent confident that these rates represent the universe.

APPENDIX II

Military (O-4 and Above) and Civilian (GS-13 and Above) Separations

	Fiscal year left DOD				
	1980	1981	1982	1983	Total
Left DOD	17,655	12,919	13,789	13,682	58,045
Left DOD and obtained a security clearance[a]	3,383	2,545	2,963	3,101	11,992
Left DOD and probably required to report in FY 1983[b]	1,731	1,332	1,593	1,188	5,844

[a]Individual holds a personnel security clearance to work at a facility of a defense contractor.

[b]Individual holds a personnel security clearance to work at a facility of a company having at least $10 million in negotiated defense contracts. Only those individuals who held a security clearance in fiscal year 1983 are included.

APPENDIX III

Military (O-4 and Above) and Civilian (GS-13 and Above) Separations by Service

	Fiscal year left DOD				
	1980	1981	1982	1983	Total
Army	6,147	4,547	4,691	4,511	19,896
Navy	4,499	3,241	3,392	3,612	14,744
Marine Corps	610	523	508	401	2,042
Air Force	5,437	4,044	4,582	4,561	18,624
Defense agencies	962	564	616	597	2,739
Total	17,655	12,919	13,789	13,682	58,045

APPENDIX IV

Military (O-4 and Above) and Civilian (GS-13 and Above) Separated Personnel Holding a Security Clearance With a Defense Contractor by Service

	Fiscal year left DOD				
	1980	1981	1982	1983	Total
Army	855	639	709	721	2,924
Navy	1,271	925	1,029	1,049	4,274
Marine Corps	145	133	129	99	506
Air Force	1,020	758	1,002	1,140	3,920
Defense agencies	92	90	94	92	368
Total	3,383	2,545	2,963	3,101	11,992

Military (O-4 and Above) and Civilian (GS-13 and Above) Separated Personnel Holding a Security Clearance and Probably Required to Report by Service[a]

	Fiscal year left DOD				
	1980	1981	1982	1983	Total
Army	403	300	351	299	1,353
Navy	594	447	510	303	1,854
Marine Corps	73	74	72	32	251
Air Force	620	463	612	518	2,213
Defense agencies	41	48	48	36	173
Total	1,731	1,332	1,593	1,188	5,844

[a]Individual holds a personnel security clearance to work at a facility of a company having at least $10 million in negotiated defense contracts. Only those individuals who held a security clearance in fiscal year 1983 are included.

APPENDIX VI

Military (O-4 and Above) and Civilian (GS-13 and Above) Separations by Reason for Leaving

	Fiscal year left DOD				
	1980	1981	1982	1983	Total
Military					
Retired	8,320	6,413	7,172	6,837	28,742
Other	1,834	1,647	1,464	1,334	6,279
Total	10,154	8,060	8,636	8,171	35,021
Civilian					
Retired	6,077	3,236	3,195	3,744	16,252
Other	1,424	1,623	1,958	1,767	6,772
Total	7,501	4,859	5,153	5,511	23,024
Total	17,655	12,919	13,789	13,682	58,045

APPENDIX VII

Military (O-4 and Above) and Civilian (GS-13 and Above) Separated Personnel Holding a Security Clearance With a Defense Contractor by Reason for Leaving[a]

	Fiscal year left DOD				
	1980	1981	1982	1983	Total
Military					
Retired	2,193	1,720	2,090	2,172	8,175
Other	162	108	97	80	447
Total	2,355	1,828	2,187	2,252	8,622
Civilian					
Retired	718	336	309	361	1,724
Other	310	381	467	488	1,646
Total	1,028	717	776	849	3,370
Total	3,383	2,545	2,963	3,101	11,992

[a]Individual holds a personnel security clearance to work at a facility of a defense contractor.

APPENDIX VIII

Military (O-4 and Above) and Civilian (GS-13 and Above) Separated Personnel Holding a Security Clearance and Probably Required to Report by Reason for Leaving[a]

	Fiscal year left DOD				
	1980	1981	1982	1983	Total
Military					
Retired	1,219	974	1,193	891	4,277
Other	82	60	52	24	218
Total	1,301	1,034	1,245	915	4,495
Civilian					
Retired	272	123	116	90	601
Other	158	175	232	183	748
Total	430	298	348	273	1,349
Total	1,731	1,332	1,593	1,188	5,844

[a]Individual holds a personnel security clearance to work at a facility of a company having at least $10 million in negotiated contracts. Only those individuals who held a security clearance in fiscal year 1983 are included.

Military Separations (O-4 and Above) by Field Grade (O-4 to O-6) and General Officer (O-7 to O-10)

	Fiscal year left DOD										
	1980		1981		1982		1983		Total		
	Field Grade	General Officer	Field Grade	General Officer	Field Grade	General Officer	Field Grade	General Officer	Field Grade	General Officer	Total
Left DOD	9,997	157	7,892	168	8,491	145	8,001	170	34,381	640	35,021
Left DOD and obtained a security clearance[a]	2,280	75	1,752	76	2,121	66	2,160	92	8,313	309	8,622
Left DOD and probably required to report in FY 1983[b]	1,255	46	997	37	1,205	40	891	24	4,348	147	4,495

[a]Individual holds a personnel security clearance to work at a facility of a defense contractor.

[b]Individual holds a personnel security clearance to work at a company having at least $10 million in negotiated defense contracts. Only those individuals who held a security clearance in fiscal year 1983 are included.